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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-902*

13 **SUSAN ROGERS HAIDVOGEL,**
14 **AKA SUSAN HAIDVOGEL**
15 **3568 Bancroft Street**
San Diego, CA 92104

A C C U S A T I O N

16 **Registered Nurse License No. 538461**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On November 14, 1997, the Board of Registered Nursing issued Registered Nurse
25 License Number 538461 to Susan Rogers Haidvogel, also known as Susan Haidvogel
26 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
27 the charges brought herein and expired on January 31, 2013, and has not been renewed.

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1 duties of the licensee in question, the record of conviction of the crime shall be
2 conclusive evidence of the fact that the conviction occurred, but only of that fact,
3 and the board may inquire into the circumstances surrounding the commission of
4 the crime in order to fix the degree of discipline or to determine if the conviction is
substantially related to the qualifications, functions, and duties of the licensee in
question.

5 As used in this section, "license" includes "certificate," "permit,"
6 "authority," and "registration."

7 9. Section 2761 of the Code states:

8 The board may take disciplinary action against a certified or licensed
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

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12 (f) Conviction of a felony or of any offense substantially related to the
13 qualifications, functions, and duties of a registered nurse, in which event the
record of the conviction shall be conclusive evidence thereof.

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15 10. Section 2762 of the Code states:

16 In addition to other acts constituting unprofessional conduct within the
17 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct
for a person licensed under this chapter to do any of the following:

18 (a) Obtain or possess in violation of law, or prescribe, or except as
19 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
himself or herself, or furnish or administer to another, any controlled substance as
20 defined in Division 10 (commencing with Section 11000) of the Health and
Safety Code or any dangerous drug or dangerous device as defined in Section
21 4022.

22 (b) Use any controlled substance as defined in Division 10 (commencing
23 with Section 11000) of the Health and Safety Code, or any dangerous drug or
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or
24 in a manner dangerous or injurious to himself or herself, any other person, or the
public or to the extent that such use impairs his or her ability to conduct with safety
25 to the public the practice authorized by his or her license.

26 (c) Be convicted of a criminal offense involving the prescription,
27 consumption, or self-administration of any of the substances described in
subdivisions (a) and (b) of this section, or the possession of, or falsification of a
28 record pertaining to, the substances described in subdivision (a) of this section, in
which event the record of the conviction is conclusive evidence thereof.

1 (d) Be committed or confined by a court of competent jurisdiction for
2 intemperate use of or addiction to the use of any of the substances described in
3 subdivisions (a) and (b) of this section, in which event the court order of
4 commitment or confinement is prima facie evidence of such commitment or
5 confinement.

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7 11. Section 2765 of the Code states:

8 A plea or verdict of guilty or a conviction following a plea of *nolo*
9 *contendere* made to a charge substantially related to the qualifications, functions
10 and duties of a registered nurse is deemed to be a conviction within the meaning
11 of this article. The board may order the license or certificate suspended or
12 revoked, or may decline to issue a license or certificate, when the time for appeal
has elapsed, or the judgment of conviction has been affirmed on appeal or when
an order granting probation is made suspending the imposition of sentence,
irrespective of a subsequent order under the provisions of Section 1203.4 of the
Penal Code allowing such person to withdraw his or her plea of guilty and to enter
a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
accusation, information or indictment.

13 REGULATORY PROVISIONS

14 12. California Code of Regulations, title 16, section 1444, states:

15 A conviction or act shall be considered to be substantially related to the
16 qualifications, functions or duties of a registered nurse if to a substantial degree it
17 evidences the present or potential unfitness of a registered nurse to practice in a
18 manner consistent with the public health, safety, or welfare. Such convictions or
19 acts shall include but not be limited to the following:

20 (a) Assaultive or abusive conduct including, but not limited to, those
21 violations listed in subdivision (d) of Penal Code Section 11160.

22 (b) Failure to comply with any mandatory reporting requirements.

23 (c) Theft, dishonesty, fraud, or deceit.

24 (d) Any conviction or act subject to an order of registration pursuant to
25 Section 290 of the Penal Code.

26 13. California Code of Regulations, title 16, section 1445 states:

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28 (b) When considering the suspension or revocation of a license on the
grounds that a registered nurse has been convicted of a crime, the board, in
evaluating the rehabilitation of such person and his/her eligibility for a license
will consider the following criteria:

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- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

COST RECOVERY

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FIRST CAUSE FOR DISCIPLINE

(June 27, 2012 Criminal Conviction for Hit and Run Driving On January 6, 2012)

15. Respondent has subjected her license to disciplinary action under Code sections 490 and 2761, subdivision (f), in that she was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On June 27, 2012, in a criminal proceeding entitled *The People of the State of California v. Susan Rogers Haidvogel*, in San Diego County Superior Court, Central Division, Central Courthouse, case number M147554, Respondent was convicted on her plea of guilty to violating Vehicle Code (VC) section 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08 percent or more, and VC 20002, subdivision (a), leaving the scene of an accident without exchanging information, misdemeanors. Charges for violation of VC section 23152, subdivision (a), driving under the influence of alcohol (DUI), a misdemeanor, was dismissed pursuant to a plea bargain.

b. As a result of the convictions, on June 27, 2012, Respondent was sentenced in conjunction with sentencing on a more recent case, case number M145027, which is detailed in paragraph 16, below, to summary probation for five years for count 2 and three years for count 3. Respondent was also ordered to perform 40 hours of volunteer work, pay fees and fines, and attend and complete a first conviction three-month drinking driver program and a Mothers Against Drunk Driving (MADD) Victim Impact Panel, and subject to standard alcohol conditions.

c. The facts that led to the convictions are that on January 6, 2012, Respondent was driving southbound along 32nd Street in San Diego, California. As Respondent approached Upas Street, the car she was driving collided with a parked vehicle on the east curb. Respondent continued driving at a southeast direction over a yard and into the wooden fence. Respondent then backed-up and drove away without exchanging information. A San Diego Police Department (SDPD) officer operating a helicopter located Respondent's vehicle and directed other officers to her location. During the enforcement stop, Respondent smelled of alcohol, had bloodshot watery eyes, and her speech was slurred. Respondent was not able to complete her field sobriety tests (FST). Respondent submitted to preliminary alcohol screening using a portable alcohol sensing device, which tested 0.138 percent and 0.141 percent BAC.

SECOND CAUSE FOR DISCIPLINE

(June 27, 2012 Criminal Conviction for DUI On January 17, 2012)

16. Respondent has subjected her license to disciplinary action under Code sections 490 and 2761, subdivision (f), in that she was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On June 27, 2012, in a criminal proceeding entitled *The People of the State of California v. Susan Rogers Haidvogel*, in San Diego County Superior Court, Central Division, Central Courthouse, case number M145027, Respondent was convicted on her plea of guilty to violating VC section 23152, subdivision (b), driving with a BAC of 0.08 percent or more, a misdemeanor. Charges for violation of VC section 23152, subdivision (a), DUI; VC 14601, subdivision (a), driving when privilege was suspended or revoked; and VC 12500,

1 subdivision (a), driving without a valid driver's license, misdemeanors, were dismissed pursuant
2 to a plea bargain.

3 b. As a result of the convictions, Respondent was sentenced in conjunction
4 with sentencing on an older case, case number M147554, which is detailed in paragraph 15,
5 above, to summary probation for five years. Respondent was also ordered to pay fees and fines,
6 attend and complete a first conviction three-month drinking driver program and a Mothers
7 Against Drunk Driving (MADD) Victim Impact Panel, and subject to standard alcohol
8 conditions.

9 c. The facts that led to the convictions are that on January 17, 2012,
10 Respondent was driving eastbound along A Street in San Diego, California. As Respondent
11 approached 29th Street, she failed to stop for a stop sign. An officer of the SDPD who happened
12 to be following her vehicle beeped his patrol car's siren for an enforcement stop. Upon contact,
13 the officer immediately noticed Respondent's smell of alcohol and her bloodshot, droopy, glassy,
14 and watery eyes. Respondent admitted to drinking a glass of wine and some disabilities,
15 prompting the officer not to administer a coordination test. Respondent consented to blow into a
16 portable breath-testing machine, which tested .128 percent BAC. Respondent was thereafter
17 transported to the SDPD headquarters, where she consented to a blood test. After processing,
18 Respondent was transferred to the Las Colinas Detention Facility for women.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct - Use Of Alcohol in a Dangerous Manner)**

21 17. Respondent has subjected her licenses to disciplinary action under Code section
22 2762, subdivision (b), in that on January 6, 2012, and January 17, 2012, as described in
23 paragraphs 15 and 16, above, she used alcoholic beverages to an extent or in a manner that was
24 potentially dangerous and injurious to herself and to others when she operated a motor vehicle
25 with a significantly high BAC.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Conviction Of an Alcohol Related Criminal Offense)**

3 18. Respondent has subjected her licenses to disciplinary action under Code section
4 2762, subdivision (c), in that on June 27, 2012, as described in paragraphs 15 and 16, above,
5 Respondent was convicted of criminal offenses involving the consumption of alcohol.

6 **FIFTH CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct – Confinement Due to Intemperate Use of Alcohol)**

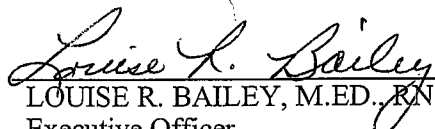
8 19. Respondent has subjected her licenses to disciplinary action under Code section
9 2762, subdivision (d), in that on June 27, 2012, Respondent was committed to the custody of the
10 Las Colinas Women's Detention Facility, as described in paragraph 16, above, for intemperate
11 use of alcohol.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein
14 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 15 1. Revoking or suspending Registered Nurse License Number 538461, issued to
16 Susan Rogers Haidvogel, also known as Susan Haidvogel;
17 2. Ordering Susan Rogers Haidvogel, also known as Susan Haidvogel to pay the
18 Board of Registered Nursing the reasonable costs of the investigation and enforcement of this
19 case, pursuant to Business and Professions Code section 125.3;
20 3. Taking such other and further action as deemed necessary and proper.
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24 DATED: April 10, 2013


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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